



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC DOCKET NO.: HOha13041057  
[REDACTED]

JAMAL L. SMITH, in his official capacity as  
EXECUTIVE DIRECTOR of the  
INDIANA CIVIL RIGHTS COMMISSION,  
Complainant,  
v.

ZENDER FAMILY LIMITED PARTNERSHIP  
Respondent,

NOTICE OF FINDING and  
ISSUANCE OF CHARGE

The Executive Director of the Indiana Civil Rights Commission ("Commission") pursuant to statutory authority and procedural regulations, hereby issues the following finding with respect to the above-referenced case. Reasonable cause exists to believe that an unlawful discriminatory practice has occurred in this instance. A Charge is therefore issued in accordance with 910 IAC 2-6-6(b).

On April 4, 2013, [REDACTED] ("Complainant") filed a Complaint with the Commission against Zender Family Limited Partnership ("Respondent"), alleging unlawful discriminatory housing practices on the basis of disability in violation of the Indiana Fair Housing Act (Ind. Code § 22-9-5.5 *et. seq.*), the Indiana Civil Rights Law (Ind. Code § 22-9 *et. seq.*) and the [REDACTED]. The Commission, therefore, has jurisdiction over the parties and the subject matter of this Complaint.

A Commission investigation has been completed. All parties have been interviewed and have had an opportunity to submit evidence. Based on the final investigative report and a full review of the relevant files and records, the Executive Director now finds the following:

The issue before the Commission is whether Respondent denied the Complainant a reasonable accommodation. In order to prevail on such a claim, Complainant must show that 1) she suffers from a disability as defined by the Fair Housing Laws; 2) Respondent knew or reasonably should have known of her disability; 3) the accommodation was necessary to afford an equal opportunity to use and enjoy the dwelling; and 4) Respondent refused to make the accommodation.

Complainant is afforded protection as her impairments substantially affect her major life activities. Further, it is evident that Respondent knew or should have known of Complainant's



disability. By way of background, Complainant had a one year lease with Respondent beginning in December 2011 and ending in December 2012. In April 2012, Complainant spoke with the property manager, Nancy Hartman, requesting to be released from her lease agreement without penalty due to recent events that aggravated her medical conditions. Complainant also submitted an April 5, 2012 notice from her physician advising the same. However, Respondent advised Complainant that she would have to pay the \$250.00 termination fee plus two months' rent in order to be release from her rental agreement. Respondent refused to offer alternatives or engage in the interactive process with Complainant. Complainant ultimately paid rent through May, the termination fee, and two months' rent in order to vacate the unit in May 2012. No evidence has been submitted or uncovered to show that Respondent would have been prohibited from renting out the vacated unit or that Respondent engaged in an interactive process with Complainant.

Respondent's failure to engage in the interactive process ultimately hindered Complainant's ability to maintain her independence as well as reduced her ability to participate in major life activities. While Respondent was not obligated to grant Complainant's specific accommodation request, Respondent's abject refusal to engage in any dialogue with Complainant regarding her request, including discussing alternatives, constitutes a violation of the Civil Rights Laws. Therefore, there is reasonable cause to believe that a violation of the Fair Housing Laws has occurred in this instance.

As permitted by 910 IAC 2-6-6(h), any party to this Complaint may elect to have the claims asserted in this Charge decided in a state court, in lieu of an administrative proceeding under 910 IAC 2-7. Such an election must be made no later than twenty (20) days after receipt of this Notice. The Notice of election must be filed with the Commission and served on the Director, the Respondent, and Complainant. If such an election is not timely made, an administrative hearing of this matter will be scheduled by the Administrative Law Judge. Respondent shall have an opportunity to file an answer to this charge within thirty (30) days of service of this Charge. Sarah Meyer and any other person aggrieved by this alleged discriminatory practice may participate as a party in the hearing by filing a request for intervention. All discovery in this matter must be completed fifteen (15) days prior to the date of hearing.

If at any time following service of this charge Respondent intends to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondent must provide a copy of this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3).

August 23, 2013

Date

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Jamal L. Smith  
Executive Director  
Indiana Civil Rights Commission